

1886-023 Chancery Causes: Andrew W. Fitts vs. John R. Fitts &c
Lee Co.

Milbourn, Ely, Sawyers, Jarvis

CA-Debt
T-Property

To the Honorable John A. Kelly Judge of the
Circuit Court of Lee County:

The Bill of Complaint of Andrew M. Fitts
a Citizen and resident of Lee County Virginia,
humbly Complaining, respectfully represents
that on the first day of May 1873; he exe-
cuted and delivered to one John R. Fitts his
Bond bearing that date, for the Sum of \$212.50,
it being for the purchase of land sold by the
Said John R. Fitts to Your Orator, and Said
Bond was made due and payable on or before
the first day of May 1875; and the Said John
R. Fitts then and there executed and delivered
to Your Orator his bond, ^{commonly called a title bond in the penalty of \$237.50} for a good and ^{good}
~~calopul~~ ^{efficient} title, ~~and~~ ^{which was to be a deed with} for the Said land, with Covenants
of General warranty, the Said land purchased
being the Said John R. Fitts undivided interest
in his mother Sarah Fitts' Dower, which Dower
lies on the north Side of Waller's ridge about Seven
or eight miles South west of Jonesville in Lee
County Virginia. Your Orator alleges that by some
means the Said John R. Fitts left the Said Bond with
one Andrew Milbourn for Collection, who was his
father-in-law and then immediately left Virginia,
and went to the State of Texas, where he now
resides; the Said Andrew Milbourn being a resi-
dent and Citizen of Lee County Virginia, but
Your Orator alleges and Charges that the Said
John R. Fitts never Sold nor assigned the

Said bond of \$212.50, to the Said Andrew Milbourn or to any other person as ^{the Said John R. Fitts} ~~Said John R. Fitts~~ never saw the Said Milbourn after the note was executed. Your Orator will here state, that after the Said Bond became due and payable, the Said Andrew Milbourn ^{in the name of Said John R. Fitts} brought an action at law on Said bond in the Circuit Court of Lee County in the name of the Said John R. Fitts, and for his ^{Said Milbourn's} benefit, against your Orator and at the November term of the Circuit Court of Lee County, a judgment went against your Orator by default, for the sum of \$212.50 with interest thereon ~~with interest thereon~~ from the 1st day of May 1875 till paid and the sum of \$ for his costs, and upon this judgment a writ of fieri facias has been issued and is in the hands of Thomas S. Ely Sheriff of Lee County who is endeavoring to collect the same off of your Orator.

Your Orator alleges that the Said judgment and execution ought to be enjoined perpetually, and to show which he will state the following facts and circumstances.

as before stated the Said bond on which the Said judgment was obtained was executed and delivered to Said John R. Fitts for the ^{balance of the} purchase money, on the Said John R. Fitts' undivided interest in the widow Sarah Fitts'

Dower, and was therefore a vendors equitable lien for the same. And as before stated the said John R. Fitts executed and delivered to your Orator a bond for a good and ~~perfect~~ ^{careful} title to the same, ^{which was to be a deed} with covenants of general warranty, but the said John R. Fitts has not yet made any deed of conveyance to your Orator, as he bound himself to do. Your Orator alleges that after the said John R. Fitts left Virginia, and after the sale was made of said undivided interest in the said Dower to your Orator, he then for the first time learned that one Absalom R. Dickinson who sued for the benefit of Litton Wood and Company, had long before that time obtained a judgment against the said John R. Fitts, in the County Court of Lee County, which judgment had long since been regularly docketed, in the judgment Docket Book, in the County Court Clerks office of Lee County, and ^{it being unpaid} was therefore a judgment lien against all purchasers or others. The said judgment was for the sum of \$40.10 with interest thereon from the 8th day of April 1860 till paid and the sum of \$5.43 for costs. Upon this judgment the said Absalom R. Dickinson, for the benefit of said Litton Wood & Co, brought a suit in Chancery, and filed a bill in the Circuit

Court of Lee County, to enforce their said judgment lien, on the said undivided interest in said Dower, sold by said John R. Fitts to your Orator; and at the November term of said Court, ¹⁸⁷⁴, a decree of Sale was entered in said Cause, by which a Commissioner was appointed and directed, to sell said John R. Fitts' undivided interest in said Dower, and said Commissioner pursuant to said Decree, advertised and sold the said undivided interest in said Dower, at public Sale, and ^{one William H. Fitts} ~~James D. Dyer~~ became the purchaser, for the principal interest and Costs of said judgment, and the Costs of said Suit in Chancery, and the expenses of Sale, amounting in the aggregate at the time of the Sale, ^{March 15th 1875} to the sum of \$128.83, so that your orator alleges that since he purchased the said land of the said John R. Fitts, he has had to buy the land a second time, on a valid and subsisting lien against the land, which was anterior and superior to the purchase made by your Orator.

Your Orator further alleges that after the said John R. Fitts left Virginia, one William Bailey of Lee County Virginia, sued out before a Justice of said County an attachment against him, and had your orator sum-

moned as a garnishee, and upon a hearing of Said Cause the justice gave judgment against Your Orator as garnishee, for the Sum of \$17.00, with interest thereon from the 1st day of April 1873 till paid, and the Sum of \$1.30 Costs, which judgment Your Orator has fully paid. And Your Orator further alleges that Since the Said John R. Fitts left Virginia, one John Holloman also Sued out before a justice of Said County an attachment against him, and Your orator was Summoned as a garnishee, And upon a hearing of Said Cause the Said Holloman obtained a judgment against Your Orator as garnishee, for the Sum of \$6.50, with interest from the 20th day of April 1873, and \$1.30 Costs, and this judgment and Costs Your Orator has fully paid. Your Orator further alleges that at the October term of the County Court of Lee County in the Year 1874, One John M. Cook ^{on an execution against J.R. Fitts,} Sued out a Summons on Suggestion, against the Said Andrew Milbourn and Your Orator, to ascertain their indebtedness to the Said John R. Fitts and Your Orator admitting his indebtedness, a judgment went against him for the Sum of \$22.55, with legal interest from the 20th day of February 1861 on \$20.67 part thereof till paid, and the Sum of \$8.09 the Costs of Said proceeding, which

Principal interest and Costs your orator has also fully paid, and ^{he} took the Said John Mc. Cook's receipt for the Same, which receipt is for \$47.65, and bears date on January the 1st 1875. Your orator also alleges that Said Judgment was a judgment rendered by a Justice of Lee County, and was rendered on the 21st day of February 1866, and was therefore long anterior and Superior to your orators purchase, and was a valid and Subsisting lien upon the land sold to him that must be respected. Your Orator further alleges that one William W. Sawyers, and one Lewis M. Jarvis, merchants and partners in trade under the firm name and style of Sawyers & Jarvis, obtained a judgment in the County Court of Lee County against the Said John R. Fitts, at the August term thereof 1867, for the sum of \$22.50, with legal interest thereon from the 20th day of January 1867 till paid, and the sum of \$6.01 costs, which judgment was docketed in the Lee County Court Clerk's office, in the judgment docket book, on the 1st day of October 1867, and was therefore an anterior and Superior lien to your orators purchase, and was therefore a valid and Subsisting lien upon Said land against all persons.

Your Orator will further State that upon this judgment an execution was issued and the Said John R. Fitts gave a forthcoming bond thereon with _____ as his Security, which forthcoming bond was forfeited and a judgment afterwards rendered thereon for the Sum of \$63.28, but to be discharged by the payment of \$31.64, with legal interest thereon from Nov. 6th 1867 till paid, and the Sum of \$2.81 for Costs, Subject to a Credit of \$14.00 paid March 16th 1868, and upon this judgment an execution was issued, and a Summons on Suggestion was also sued out, by the Said Sawyers and Jarvis and against Your Orator, and at the _____ term of the County Court of Lee County a judgment was also rendered against your orator, on the Said Summons on Suggestions, sued out, for the Sum of \$22.50, with interest from May 31st 1873 till paid and the Costs, which Costs amount to \$7.25. But your orator will here state, that the Said John R. Fitts had before this Summons on Suggestion was sued ^{out} left Virginia, and went to Texas, and was not here to make any defence, and Your Orator at that time, did not know of any defence he could make for him, but since the judgment was obtained against him, there has been placed in his ^{your orator's} hands a receipt executed by Sawyers & Jarvis,

by L. M. Jarvis, the said receipt is for
\$ and purports to be a receipt
in full of principal and interest, and ex-
cepting the costs, Your Orator therefore al-
leges that all of said judgment except the
costs, is fully paid and was paid at the
rendition of said judgment against him,
yet the said John R. Fitts was absent and
had no opportunity to be heard, and your
orator did not know the fact till after-
wards. Your orator alleges that the said
Sawyers & Jarvis refuse to credit the amount
receipted for, but are endeavoring to collect
the full amount off of your orator by a
writ of fieri facias, which is now in the
hands of Thomas S. Ely Sheriff of Lee County.

Your orator therefore alleges that instead
of getting a good title according to his
contract the said John R. Fitts has not
yet made him any deed at all, but has
left Virginia and is now a resident of
the State of Texas, and the said John R.
Fitts' mother, being still living, holds the
said interest in the Dower, and will hold
the same during her life, and your orator
claims that said land having been sold a-
way from him by virtue of a judgment
lien that existed long before his purchase,
he is not bound to clear his name from the same.

The Sawyers and Jarvis debt because the
Court of Lee County being notified
that the said John R. Fitts claimed the
said debt and had a rule entered
and served upon him to show
cause why he should not pay the same.
His claim to the said debt being
denied to appear & show cause.

But your orator will have State that under the will

Andrew Milbourn and one Dr. Wm. McNeil who wanted to purchase from R. H. Hitts land outside of the town the said Andrew Milbourn took the land outside the town and found himself to pay off all judgment less that amount the said Hitts sold estate so that under the agreement the said Andrew Milbourn was really bound to pay the said Hitts debt and liability of the land in fact paid to do so by the land

then these ~~are~~ ^{defences and} equitable offsets to the entire judgment, but he alleges that in case ~~it~~ ^{they} will not be so considered, then he claims that he has paid and will have to pay, ~~and~~ ^{together} judgments against him, and these facts with the fact that Sarah Hitts the Doweress, still holds the land, and will hold it during her life, are equitable offsets sufficient to perpetually enjoin the said judgment. And your orator also alleges and claims that the judgment against him on the summons on suggestion should also be perpetually enjoined upon the grounds that the debt had all been paid except the costs, which fact your orator did not know at the time, and ^{that he was misled by the law firm of Hagan and Pridemore} your orator will here state that the beneficial Plaintiff, in said judgment, that is the said Andrew Milbourn, employed the law firm in Jonesville Va. consisting of Patrick Hagan and Auburn L. Pridemore, under the firm name and style of Hagan and Pridemore, to bring said action at law against him, and the said Auburn L. Pridemore knowing and being informed by your orator, of these equitable offsets, agreed with your orator, ^{before the said judgment was obtained} that he should bring up all his claims and offsets, against said bond, sued on, and such as were equitable legal and just were to be allowed, and

if any thing was found to be due after allowing all legal equitable and just offsets, then your Orator was to pay it; and it was your orators understanding from this agreement with the said Auburn L. Pridemore, that no judgment was to be rendered against your Orator, until the legal equitable and just offsets were ascertained, and if any balance was found to be due he was to pay it without any judgment. But notwithstanding this agreement with the said attorney, a judgment was permitted to go against him by default, without his knowledge or consent, and contrary to said agreement, by which your orator was taken completely by surprise. Your orator will further state, in addition to what he has heretofore stated, that the note or bond sued on was never assigned to said Milbourn, or ^{to} any one else, and so far as your orator knows was never sold to said Milbourn or any one else, it being ~~always~~ your orators understanding, that the bond was simply left at said Milbourns, so that the money could be paid on it for the benefit of John R. Fitts, when it became due, the said Andrew Milbourne being the father-in-law of said John R. Fitts, and having the care of his infant children, and the said John R. Fitts being at that time ^{having been} a member

of his family ⁴ staying ^{at} said Milbourn's before he left Virginia,
and therefore your orator alleges, that he
had no notice of any assignment or Sale
of said Bond, to said Milbourn or to any
one else and if the said Bond was sold by said Fitts to Milbourn
or anyone else, it was done without your orator's knowledge or
consent, and without any assurance of payment from him or
Now the object of this bill is to enjoin
perpetually the judgment of the Circuit
Court of Lee County rendered against your
orator at the november term thereof 1875
in favor of John R. Fitts for the benefit
of Andrew Milbourn upon the grounds
herein stated.

And your Orator being without an
adequate remedy at law and redressable
only in a Court of Chancery his prayer
therefore is, that the said John R. Fitts,
and Andrew Milbourn, and Thomas S. Ely
Sheriff of Lee County, and William W.
Sawyers, and Lewis M. Jarvis, be all made
the parties defendants to this bill, and that
they all be summoned and required to an-
swer the several allegations of the same
upon their oaths, and that an order of pub-
lication be duly made posted and pub-
lished, against the said John R. Fitts William
W. Sawyers and Lewis M. Jarvis, who are non-
residents, and that ~~upon~~ ^{until} a hearing of this
Cause can be had, the said judgment of
John R. Fitts for the benefit of Andrew
Milbourn against your orator, be enjoined,

And that the Said Judgment of Sawyers & Jarvis, against Your Orator be also enjoined, and upon a final hearing that Said Judgments be both perpetually enjoined, and that Such other further And General relief be extended to your orator, as may be consistent with equity and justice, and best suited to his Cause, May the Commonwealths writ of Spa. issue directed &c. Miller for Plff.

Virginia Lee County to wit:

This day Andrew McFalls the plaintiff in this case personally appeared before me the undersigned ^{Deputy Clerk of the County and Circuit Courts} ~~a Justice of the peace in~~ Lee County Virginia and made oath and affidavit in due form of law that the facts and allegations stated in the foregoing bill are true to the best of his knowledge information and belief given under my hand this the 25th day of February 1876.

John R. Gibson D.C.

Dr 7.47 June 1881
Orcl 1.00 July 1881

Dr C 8.85 - Mr. 1881

S 3.00

A 15.00

Pr 6.00 for by Fitts

S. A. L 5.00 " " " "

Dr Mr. 2.50

Estimate for Co. 1.75

\$50.57

Cost of Co. 7.00 Paid by Mr.

\$58.57

29.28 1/2

Andrew M. H.

W. Bill in Chy

John R. Fitts & Co

The negotiations prayed for
this bill are granted to take effect

in execution of proper order
to Sawyer & Fitts, & Co

to Dept. March 1881

1111 J. A. Kelly
March 2, 1881

John Clerk of Circuit Co.

1876 May 13th O. P.
" June 1st Expects order on house
" July Decree Merv vs Saml & Co
" Aug, Sept, Oct, Nov Dec. Contd.
1877 Contd this year.
1878 Contd " "
1879 Contd " "
1880 Contd " "
1881 Contd to June
" July & Aug. Contd.
1882

1881 Sept, Oct, Nov & Dec Contd

1882 June, July & March "

1883 Contd this year

1884 " " "

1885 Jan Contd

" Feb. Scin facias awarded
against Sarah B. Martin &
Andrew J. Mary & Luthina
A. Fitts & Co

March. to cause set for hearing
by then plaintiff

Mr. Decree for an acct & Contd

Aug Decree final

O B 5248

To The Hon. John A. Kelly Judge
of the Circuit Court of Lee
County Virginia

The answer of Andrew
Milbourn to a bill filed in
this Honorable Court against him
by Andrew M. Fitts.

Respondent in answer to said
bill would say the judgement
obtained by him against said Fitts
and which is sought to be en-
joined, was upon a note, delivered
to respondents wife, for a valuable
consideration paid John R. Fitts viz:
for feeding, clothing nursing and
taking care of his the said Johns
orphan children, that said note
was so turned over to her & fully
paid for, before the answer ~~or~~
made or judgement rendered by
the plff in the case of John
McCook against said John R.
Fitts; and before the said Andrew
M. Fitts paid anything on the
Litten Woods judgement. Respond-
ent alleges that neither of said
judgements were at the time of
the sale of said land or the purchase
of the note by respondents wife

a lien upon said land for which
said note was executed, and not
being then a lien they could not
afterwards affect the vested rights
of this respondent. He denies therefore
that the plff was bound to pay
them, and not being bound, their
payment can not affect your re-
spondent's rights. The pretended judge-
ment of Dr. Bailey is a nullity as
respondent is advised without
any authority, or warrant in law
and was not nor could not bind
any one being void ab initio.

This respondent is informed and be-
lieves that no such understanding
agreement or conversation ever
occurred between his Counsel & the
said Andrew M. Feltz, he therefore
denies that such arrangement
ever in fact occurred. Respond-
ent is advised the plff was bound
to make defense if such he
had at law, and having failed
to plead said judgment is
conclusive against him so far
as the rights of this respondent
are concerned, and he insists upon

such legal defense here as said
Judgement in law entitles him.
Respondent himself not long before
the plffs purchase, also purchased
a small but valuable lot of land
from John R. Fitts and he then to
protect himself had the records
recoed for all liens and judge-
ments and paid all he could
find and Litten Wood Lee, nor
Dickinson for them, nor Cook,
could be found. That being doct-
eted as the law requires, nor had
he any knowledge of them. Nor
were any of them so docketed
as to create liens against the
plff until long after said date
had passed into the hands of
respondent's wife as afore said
and hence all the payments
claimed by the plff as respondent
is alleged are voluntary, illegal
& void as to him. And having
now fully answered the prayer
to be dismissed with his costs,

A. L. Indemon

Andrew Milbourn

Ans. to Answer.

Andrew M. Little

Filed in open court
by leave thereof
March 26th 1886.
J. C. H. Hyatt

Virginia Lee County to wit.
This day Andrew Milbourn per-
sonally appeared before me
and made oath that the foregoing
Answer is for as made upon
his own knowledge is true & as
for as made upon information
derived from others he believes it
to be true. Given under my hand
this Dec. 1886.

J. P.

To the Hon John A. Kelly Judge of the Circuit
Court of Lee County Virginia

The answer of Martha E. Fitts Andrew of
Fitts. Mary E. Fitts and Lethen A. Fitts infant children
of John R. Fitts decd. by Henry C. Joslyn their guardian
ad litem. to a bill filed in this honorable court against
them & others by Andrew M. Fitts.

Respondent says that his said wards are young
and of tender years and being infants are the pecu-
liar wards of courts of equity: and respondent there-
fore commits his wards interest in this cause to
your honors care and keeping

Respondent further says that he knows nothing
personally of the matters and statements of the plaintiffs
bill, and his said wards have not informed of any
thing pertinent thereto, and in fact, at the time the
transaction referred to in the plaintiffs was transacted
between him and John R. Fitts decd. they were too young
to take notice of such transactions

Respondent on behalf of his said wards, insists
that no claim be allowed the plaintiff as a credit on
the judgment enjoined, until the same shall be
well established, as a legal and proper payment thereon.

And having now answered as fully as deemed proper
Respondent now prays that Pelffs bill be dismissed
and his wards decreed their costs.

Henry C. Joslyn
Guardian Ad. Litem
for said Infants.

Sworn to before me by
H. C. Joslyn March 9th
H. J. Morgan Clerk

Martin E. Fitts & Co.

Adls $\frac{2}{3}$ Received by General and others

A. M. Fitts

Filed Nov. 1886
J. A. G. Hyatt
cc

To the Honorable John A. Kelly Judge
of the Circuit Court of Lee County

In answer to the Bill filed by Absalom
R. Dickinson for the benefit of Litton Wood & Co.
against John R. Fitts & others I will State
that I am indebted to John R. Fitts in
the Sum of Two hundred and Twelve and one
half Dollars due about March. or April 1865
Subject to a Credit of \$6.00 paid. Asiam Hollis-
man, ^{and probably garnished not yet paid} and I am willing to pay the plaintiffs
Judgment ^{& Costs} against John R. Fitts, ^{when John Fitts's debt is due} rather
than let the land I bought of him be
Subjected provided I can get a Credit
for the same And I direct that this
arrangement be made if it is satisfactory
to the parties Andrew M. Fitts

Mr. Andrew Milbourn

The judgment of Absalom R. Dickinson for
Litton Wood & Co is a lien against John R. Fitts
is a lien on the land Andrew Fitts bought
of John and this arrangement will save
some Costs and be better for all parties.
David Miller.

Theodore Bailey D.S. W. Co. San Hill Pa.
 W B Shannon J D " " " "
 Booken Short Refers " " " "

Abigail R. Dickinson
 for Litton Wood & Co

vs. } answer of
 Andrew M. Fitts.

John R. Fitts & others

A. M. Fitts

vs.

John R. Fitts &c

Pffy

Defts

Embly

This cause came on to be finally heard on the papers formerly read, and the report of Comr. H. J. Morgan filed during the present term showing that Sarah C. Fitts Martha E. Fitts & herself as Comr. on the part of A. J. Mary E. & Luthern A. Fitts, had made and acknowledged for record a deed conveying the land in the bill mentioned to the plaintiff A. M. Fitts and was argued by counsel, and the said report and deed being accepted to, on consideration thereof it is adjudged ordered & decreed that said report and deed be confirmed, and the clerk of this will deliver to the County Court clerk said deed for recordation and no further action being necessary in the cause. The parties are herein dismissed & the cause stricken from the docket.

A. M. Fitts

as } Dear Mrs. Fitts

John R. Fitts and

entered page 548

Entered this

Aug 18 1856.

J. R. K.

A. M. Fitts

vs.

Peff

In Chy

John R. Fitts & al Defts

This cause came on again to be heard on the papers formerly read in the cause and the report of Comr. C. T. Duncan and exhibit (A+B) therewith filed in the cause May 31st 1886 and was argued by counsel, and it appearing to the court from said report and exhibit therewith that the parties had mutually settled all matters of difference in this suit between them, the court thereto it is now adjudget ordered and decreed that the injunction heretofore granted the plaintiff in the cause be and the same is hereby dissolved as to the sum of \$200.00, ^{without damages but} with legal interest thereon from May the 31st 1886 till paid; and the said injunction is made perpetual as to the residue of the judgment at law in the case mentioned beyond the said \$200, and it is further adjudget that each party pay an equal half of the costs of this suit and the suit at law. And Sarah C. Fitts and Martha E. Fitts two of the children & heirs at law of John R. Fitts deceased being now of age, are ordered to convey all their undivided interest in the down lands of Sarah Fitts dead to the Peffs A. M. Fitts, and Henry J. Morgan is appointed a comr. for the purpose, who is directed to convey on the part of Andrew J. Fitts Mary E. Fitts and Luthera A. Fitts the three infant children of said John R. Fitts dead, all their undivided interest in said down lands with covenants of special warranty, & until the execution of said deed the cause is continued.

A. M. Fitts

as { Deem No 2

John R. Fitts & al.
Entered page 530

Entered this
Augt 24 1886.
J. R. F.

Andrew M. Fitts

vs.

John R. Fitts & others

Plff

In Chancery

Defts

The Scire facias awarded at the Rules against Sarah B. Fitts, Martha E. Fitts, Andrew J. Fitts Mary E. Fitts and Luthera A. Fitts children heirs at law of said John R. Fitts decd. having been returned & executed, and they failing to appear and to show cause why this writ should not be reversed against them, and proceed in to original decree against them as defendants; It is therefore ordered that this writ be reversed against the said Sarah B. Martha E. Andrew J. Mary E. and Luthera A. Fitts as defendants and be proceed in to original decree against them as defendants: And it being suggested that the said Martha E. Andrew J. Mary E. & Luthera A. Fitts are infants under 21 years of age, it is further ordered that Henry C. Joslyn be appointed guardian ad litem for them to defend their interest in this cause. And thereupon on his Motion leave is granted said Joslyn to file his answer as such and the same was accordingly filed: And on the Motion of ~~Andrew M. Fitts~~ another deft in the cause leave is granted to file his answer the same was accordingly filed & to which the plaintiff entered a general replication And thereupon by consent of parties the cause came on to be heard on the bill of the plaintiff and exhibits therewith, the answer of and the answer of said Joslyn as guardian ad litem for said four infants; And the said bill taken for confessed as to all the other defendants And was argued by counsel.

On consideration of all which it appears to the court
that an account is necessary to be taken in order to
ascertain how much if any of the judgment at law in
the bill mentioned is yet due and owing to debt-
It is therefore adjudged ordered and decreed that Charles
J. Duncan who is hereby appointed a commissioner
for the purpose ^{do} ~~will~~ ascertain and show which, and how
many of the claims paid, or claimed by the plaintiff to have
been paid by him ~~which~~ are ^{proper} credits and proper to be
applied in discharge of the judgment complained of &
he will report any other matter deemed pertinent by
himself or required by the parties and he will report
his action to the court & the cause is continued;

Andrew M. Fitts

as. { Decm No 1

John R. Fitts & others

Entered Page 303-4

J. R. Gibson D. C.

Power against
him

Entered this
March 26 1886.

J. A. K.

A. R. Dickenson

For Litton Wood &c.

against

Defts.

Deeds of Sale

John R. Fitts & others

Defts.

This Cause came on this day to be heard upon the Complainants bill, and Exhibits filed therewith, and was argued by Counsel and it appearing to the Court, that the resident defendants had all been served with process and that an order of publication had been made posted and published against the nonresident defendant and that the Cause was regularly matured at rules, and set for hearing by the Complainant, and the Defendants still failing to appear and answer the Complainants bill, it is therefore taken for Confessed against them, on consideration of which the Court is of the opinion that the Complainants Judgement is the bill mentioned is a valid and subsisting lien on the lot of land and interest in the Dower in the bill mentioned in the Dower in the bill mentioned which may be enforced in a Court of equity and unless the Defendants or some one for them shall within 30 days from this term of the Court, pay the beneficial plaintiff the said Judgt. of \$40.10 & interests and Costs thereon and the Costs of this suit, then it shall be the duty of David Miller, who is hereby appointed a special Commissioner for the purpose to sell at public outcry, to the highest bidder, at the front door of Leebeaumonts house, on some Court day, the tract of land laid off to John R. Fitts and sold by him to Defendant Mrs. N. McNeil, and also the interest in the widow Martha Fitts Dower in the bill mentioned that Defendant John R. Fitts was entitled to as an heir of Cornelius Fitts deceased, or so much thereof as may be sufficient pay said Judgement interest and Costs, and the Costs of

This suit; selling first the interest in the dower. He will re-
 quire the costs of this suit and the expenses of the sale in
 cash, and for the residue he will require bonds with good
 security in three equal payments, due respectively in one
 two and three years from date, bearing interest from date.
 But before proceeding to sell he will advertise the time place
 and terms of the sale, for four weeks at the front door
 of the Court house, and at two or more other public pla-
 ces in said County, and he will report his action to
 the next term of this Court, and this Cause is Continued.

A Copy

Teste, - R. H. Orr Jr. D.C.

blk.	9.59
A.	15.00
S.	1.50
P.	5.00
Estimated ^{costs}	10.00
Court.	6.13.4
	\$ 47.22.4

Shadrach M. Mills.
 Is a copy of Deeds for sale
 John R. Mills returns

A. M. Fatts

vs.

John R. Fatts & al.

Plffs

Defts

In Eqy

Pursuant to the decree entered in this cause on the 25 day of Augt. 1886. the defts Sarah B. Fatts, Martha E. Fatts and the undersigned as Comt. on the part of Andrew J. Fatts Mary E. Fatts and Lethem A. Fatts have made and acknowledged for record a deed conveying to the plaintiff A. M. Fatts ^{the undivided} ~~the~~ interest of said five parties in the above lands of Sarah Fatts and the same being John R. Fatts interest therein which descended to them, and said deed is herewith filed marked (A) for your inspection

Respectfully submitted

Henry J. Morgan Comt.

A. M. Fitts

vs. { Cont. Report of deed

John R. Fitts & c.

Filed Aug. 7. 1886

J. A. Hyatt c.

Office of C. T. Bureau atty at Law
Jonesville Va May 31st 1886.

A. M. Hitts

Plff.

vs

J. L. Cheney,

J. R. Hitts et als.

Def

By an decree entered in this
cause on the 26th day of March 1886. The
undersigned who was appointed a
Commissioner for the purpose was
directed to ascertain what claims
paid by the Plaintiff are proper
credits to be applied to the judg-
ment complained of.

On the 18 day of May 1886 I had
the parties interested and their attor-
neys before me when by consent
the matter was continued until to-
day when they again appeared
before me and after discussing the
matter at some length the parties
themselves settled the matter between
them by the Plaintiff agreeing and
binding himself to pay Mrs. Mil-
bourn who is the party entitled there
to the sum of \$200. with interest on
the same from this day and to pay
one half the costs, this proposition
was accepted by Genl. Pridemore

Atty for Mrs Milbourn The same
was then reduced to writing and
signed by the parties, and is filed
herewith as part hereof marked "A13"
This action being a full adjust-
ment of all the matters involved
in the suit renders any further
enquiry by me as useless.

Respectfully submitted
C. T. Duran lawyer

A M Hills

vs 3 Report of Corns

John R Hills et al

Filed May 31 1886

J. A. G. Hyatt

Corn's Fee \$2.50

Andrew M Fitts Puff
25. } In chey
John R Fitts et als } Defts.

As a final settlement of all matters involved in this suit and growing out of the same Andrew M. Fitts agrees to pay as of this date the sum of two hundred dollars and one half the costs of the Chancery suit & suit at law. And interest is to run on the \$200- from this date. And Mrs Christina Milbourn by her Counsel A. L. Pickens her counsel agrees to accept the above terms. And the said Andrew M. Fitts waives as to this debt his Homestead exemption. Witness our hands & seals this May 31st 1886.

Andrew M Fitts
A. L. Pickens

A M Fitts
vs 3 argument
M Fitts

"AB"

Virginia.

At a County Court continued and held for the County
at the Court House thereof, on Wednesday the 21st day of October
1874,

John M. Cook

v s

John R. Fitts

Andrew M. Fitts to ascertain their indebtedness to the defendant

This day came again the plaintiff by his attorney, and it
appearing to the Court that the defendant is indebted
to the plaintiff in the sum of \$22.55 with legal interest
on \$20.67 part thereof from the 20th day of February 1861,
until paid, and the said Andrew Milbourn again personally
appeared in Court, and answered that he was not indebted
to the defendant, said summons is therefore dismissed as
to him, and the said Andrew M. Fitts personally appeared in
Court and answered that he was indebted to the defendant
in a sum more than sufficient to pay and satisfy the
plaintiff's claim against the defendant, it is therefore con-
sidered by the Court that the plaintiff recover against the
said Andrew M. Fitts said sum of \$22.55 with legal interest
on \$20.65 - part thereof from the 20th day of February 1861, until
paid, and the cost of this proceeding, which when paid by
him shall be a credit in his favor on settlement with the de-
fendant,

A Copy

Teste - R. W. Orr Jr. CL.

b. 40.7

a. 2.50

S. 1.50

\$ 8.07

John M. Cook
vs Copy of Judgment
John R. Fells

Know all men by these presents that we Andrew M. Fitts and David Miller are held and firmly bound unto Andrew Milbourn in the just and full Sum of Five Hundred Dollars lawful money of the United States and for the true payment of which we or either of us hereby bind ourselves our heirs &c. jointly and Severally and firmly by these presents and we and each of us hereby waive the benefit of our homesteads and all exemption laws as to this obligation Signed with our Signatures and Sealed with our Seals on this the 25th day of April 1876.

The Conditions of the above obligation are such that whereas one John R. Fitts who sued for the benefit of the said Andrew Milbourn; at the November ^{1st} ~~term~~ ^{of December} of the Circuit Court of Lee County in the year 1875—obtained a judgment at law against the said Andrew M. Fitts for the Sum of \$212.50 with interest thereon from the 1st day of May 1875 till paid and the Costs, and the said Andrew M. Fitts on the 3rd day of March 1876 obtained from the judge of the Circuit Court of Lee County an injunction enjoining said judgment to take effect upon the execution of a proper bond,

Conditioned according to law. Now therefore
if the above bound Andrew Mc. Fitts shall
well and truly pay the said judgment (proceed-
ings on which are enjoined) and all such costs
as may be awarded against the said Andrew
Mc. Fitts and all such damages as shall be
incurred in case the injunction be dissolved
then the above obligation to be void other-
wise to remain in full force and virtue.

Andrew McFitts *Seal*
David Miller *Seal*

Andrew Mc. Fitts
By *injunction bond*
John D. McFitts *Seal*

Andrew M. Fitts Depts. }
against } Statement
John R. Fitts & others. Depts. }

Bond executed by Andrew M. Fitts to
John R. Fitts due May 1st 1875 and
bearing interest from that date
\$212.50

Amt of 1st Garnishee on May 1st 1875	20.40
	192.10

Amt of Second Do.	Do	8.60
		183 18-0

Amt of third Do.	Do	48.60
		134.90

Amt of Litton Wood & Cos Claim 129.78

Balance due May 1st 1875 - 5.12

Judgment in favor of
Sawyers & Jarvis for Costs
the principal and interest
being released

Costs of Judgment at Law 6:01

Costs of Summons on Suggestion	<u>7.25</u>
	13.26

	John R. Stetts	10.26
		5.12
Entitled to Judgment against	for this Sum	8.14

over and above his indebtedness

Said A. M. Fitts having overpaid the bond,
this much,

Andrew M. Fitts

vs. Statement

John R. Fitts & others

14
13
29

1000
29

2971
488.50

POSITIVELY THE LARGEST CIRCULATION OF ANY PAPER IN SOUTH-WEST VIRGINIA.

"The Lee County Sentinel,"

\$1.75 Per Annum, In Advance,

Charles Willoughby, Owner and Editor,

Jonesville, Va.,

1877.

Recd. of Mr. A.M. Fitts five
dollars (\$5.00) amt. in full
of ac. on a/cy. order in con-
of Mather vs. Fitts. This 15th
day of July, 1877.

Chas. Willoughby.

The Commonwealth of Virginia

To the Sheriff of Lee County, Greeting:-

Whereas a Chancery Cause has been pending in our Circuit Court for the County of Lee, between Andrew M. Fitts Plaintiff and John R. Fitts et al Defendants, and before a decree was rendered therein, the said John R. Fitts died intestate leaving the following children his heirs at law to wit, Sarah E. Martha E., Andrew J., Mary E., and Luther A. Fitts.

And now therefore on behalf of the said Andrew M. Fitts, We command you that you make known to the said Sarah E. Fitts, Martha E. Fitts, Andrew J. Fitts, Mary E. Fitts, Mary E. Fitts and Luther A. Fitts, that they be before the Judge of our said Court at the Court House on the first day of the next term, to show cause if any they can, why the said action should not be proceeded in to a final decree on hearing against them as defendants.

And have them there this writ, witness J. A. Hyatt Clerk of our said Court at the Court House thereof on this the 3 day of March 1886 in the 110 year of the Commonwealth.

Liste J. A. Hyatt c c

A. M. Fitts

as ^{Deputy} Scire Facias

To 1st Mr. Term 1886.

John R. Fitts et al

We accept legal
service of this Scire facias
March 3rd 1886.

Martha E. Fitts
Luthera A. Fitts

And further executed
by delivering an office
copy of this Scire facias
to Sarah E. Fitts, Mary
E. Fitts and Andrew
J. Fitts March 6th 1886

S. H. Emery Deputy
for R. D. Flanagan S. C.

Virginia

At Rules held in the Clerks
Office of the Circuit Court for
Lee County on the first
Monday in January 1886.

Andrew M. Fitts

Plff

against

Andrew Milbourn.

Deft

In Chancery

On motion of the Defendant by
his attorney, a rule is awarded
against the plaintiff to appear
at the next rules to be holden
on the first Monday in February
next to show cause why he shall
not prosecute and prepare his
Cause for hearing or have
his bill dismissed.

J. A. Hyatt Clerk.

A. M. Fitts
vs ³/₄ Rule vs
~~Plaintiff~~
A. Milbourn

Lo Feby Rules 1886

Executed by delivering
an office copy of
this Rule to A. M.
Fitts January 29 1886.

S. Haring Deputy
for R. D. Haring S. L. C.

Sheriffs fee 50

Jan 29

\$47.65

Received January 14/75 of Andrew M. Fitts
Forty Seven Dollars and Sixty Five Cents, in full of
Principal Interest and Cost, of a Note N. S. John B. Fitts,
for which Judgement was obtained against Andrew M.
Fitts.

John M. Couk

47.67
18.30
6.58
100.00

162.47
600

722.47

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5 0	"
15 00	
6 00	
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5 00	

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Virginia.

In the Clerk's office of the Circuit Court of Lee County,
the 13th day of May 1876.

Andrew M. Hitts

Plaintiff

against

John R. Hitts et als

Defendants

In Chancery.

The object of this suit, is to perpetually enjoin the collection of the judgments in the bill mentioned, And it appearing from an affidavit filed in the cause that the defendants John R. Hitts, William W. Sawyers & Lewis M. Jamis are nonresidents of this State, it is ordered that they appear here within one month, after due publication of this order, and do what is necessary to protect their interests in this suit.

A copy.

Teste James W. Orr, Clerk.

I Certify that on Monday the first day of the May term 1876, of the County Court of Lee County, I posted at the front door of the Court house of said County a copy of the above order, Given under my hand, May 1876.

James W. Orr, Clerk.

Andrew M. Hitts

vs. Order of Publication

John R. Hitts et als

Copy to Lee County Sentinel
May 13th 1876.

James W. Orr, Clerk.

The Commonwealth of Virginia:

WE COMMAND YOU TO SUMMON

Andrew Milbourn
Ely Sheriff of Lee County

To The Sheriff of Lee County:—Greeting,

John R. Fitts
and Thomas S.

to appear before the Judge of the *Circuit* Court of Lee County, at the Court-house, in the
Clerk's Office, *at June*
hibited in our said Court against *them* *by Andrew M. Fitts*

Rules next, to answer a bill in chancery, ex-

And have then there this writ. Witness, JAMES W. ORR, Clerk of our said Court, at the
Court-house, this *26th* day *April*, 1876, in the *100th* year of the Commonwealth,

James W. Orr, Clerk.

To restrain & inhibit the defendants from further
proceeding to collect the judgment in the bill mentioned
until the further order of Court, bond with security
having been given as the law directs.

Teste - James W. Orr, Clerk.

Mr

Andrew M. Yettis

vs Jha m. Chancery

John R. Yettis

James Rules 1876.

Executed on A. M. Yettis
& Shol S. Cady.

Shol S. Cady, D. S.

for Shol S. Cady, S. C. C.

1/2 m. 10. 1. 1. 1.

Positively the Largest Circulation of any Paper in South-West Va.

Office of

The Lee County Sentinel,

CHARLES WILLOUGHBY, Ed. & Prop.

Jonesville, Va., June 9, 1876.

I hereby certify that the Chancery
Order of A. M. Fitts vs. John R. Fitts
& al. of which the annexed is
a copy, was printed 4 weeks suc-
cessively, beginning today, in the
Lee County Sentinel, a weekly
newspaper published in the state
of Virginia.

C. Willoughby
Ed. Sentinel

VIRGINIA :—In the the Clerk's office of
the Circuit Court of Lee county, on the
13th day of May, 1876.

ANDREW M. FITTS, Plt'ff. }
vs. } against } In Chancery.
JOHN R. FITTS et als, Def'ts. }

The object of this suit is to perpetually en-
join the collection of the judgment in the bill
mentioned. And it appearing from an affidavit
filed in the cause, that the defendants John R.
Fitts, William W. Sayers and Lewis M. Jarvis
are non-residents of this State; it is, therefore
ordered that they appear here within one
month after due publication of this order, and
do what is necessary to protect their interests
in this suit.

A Copy, Teste :—
JAMES W. ORR, Clerk.

may 19 4w-prs fee \$5.

Patrs. Centrist

Mr. Pitt

J. R. Pitts, et al